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ITEM FOR ENVIRONMENTAL BOARD AGENDA

**BOARD MEETING
DATE REQUESTED:**

DECEMBER 3, 2014

**NAME & NUMBER
OF PROJECT:**

2908 SCENIC DRIVE
SP-2013-0295DS

**NAME OF APPLICANT
OR ORGANIZATION:**

Moncada Consulting
Phil Moncada, (512) 627-8815

LOCATION:

2908 Scenic Drive

PROJECT FILING DATE:

August 1, 2013

**WPD/ERM
STAFF:**

Sylvia Pope, 974-3429
sylvia.pope@austintexas.gov

**PDRD/ENVIRONMENTAL
STAFF:**

Liz Johnston, 974-1218
liz.johnston@austintexas.gov

**PDRD/
CASE MANAGER:**

Michael Simmons-Smith, 974-1225
michael.simmons-smith@austintexas.gov

WATERSHED:

Lake Austin (Water Supply Suburban),
Drinking Water Protection Zone

ORDINANCE:

Watershed Protection Ordinance

REQUEST:

1) To modify the standard 150-foot width Critical Environmental Feature buffer in order to allow removal of existing stairs and construction of a tram within a corridor 10 feet wide and 55 feet long that spans a canyon rimrock, 25-8-281(C)(1)(a).

STAFF RECOMMENDATION: Recommended with conditions.

REASONS FOR RECOMMENDATION: The findings of fact have been met.



MEMORANDUM

TO: Mary Gay Maxwell, Chairperson and Members of the Environmental Board

FROM: Liz Johnston, Environmental Review Specialist Senior
Planning & Development Review Department

DATE: Nov. 21, 2014

SUBJECT: 2908 Scenic Dr. SP-2013-0295DS

On your December 3, 2014 agenda is a request for consideration and recommended approval of one variance to modify the standard 150-foot width Critical Environmental Feature buffer in order to allow removal of existing stairs and construction of a tram within a corridor 10 feet wide and 55 feet long that spans a canyon rimrock, 25-8-281(C)(1)(a).

Description of Property

The subject property is a 0.35-acre platted lot located in the Taylor Slough North Watershed, is classified as Water Supply Suburban, and is located in the Drinking Water Protection Zone. According to City of Austin GIS, the site is located over the North Edwards Aquifer Recharge Zone. The subdivision, Herman Brown Addition No. 2, Sec. 4, was recorded in 1964. The property is located within the Full Purpose Planning Jurisdiction and the lot is zoned SF-3-NP. According to Travis County Appraisal District records, the existing residence was constructed in 1968. The site does have an existing dock with an associated metal staircase for shoreline access. No permit information was found for the dock, though it appears to have been constructed prior to 1984 based on aerial photographs and TCAD information. The property is located in the West Austin Neighborhood Group.

Existing Topography/Soil Characteristics/Vegetation

According to City of Austin GIS, the lot elevation ranges from the Lake Austin shoreline at 492.8 feet mean sea level (msl), to approximately 543 feet msl at the back of the house (a fifty foot rise). The type of soils located on this site were not identified in the Environmental Resource Inventory, but shoreline soils along Lake Austin are typically alluvial soils that are highly erodible, mixed with rocks and large boulders. From the proposed tram access point to the shoreline, the topography drops approximately forty feet over a span of approximately fifty-five feet. The slope vegetation contains many existing native trees, including some native saplings and other woodland species. The slope is also heavily covered in non-native Asian jasmine (*Trachelospermum asiaticum*), a low-growing vine. The site does contain a canyon rimrock Critical Environmental Feature at the top of the slope.

Critical Environmental Features/Endangered Species/CWOZ

There is a canyon rimrock Critical Environmental Feature (CEF) located at the top of the slope, immediately downslope of the existing residence. The project is located within the Critical Water

Quality Zone of Lake Austin, which is a 75 foot buffer from the 492.8 feet shoreline elevation. There is also a wetland Critical Environmental Feature along the shoreline, which would be disturbed by the construction. The applicant proposes to mitigate an equivalent area of the disturbed wetland area with native vegetation and therefore no variance is necessary for disturbance of the wetland CEF. No endangered species were identified in the Environmental Resource Inventory.

Project Background

The site plan under review was submitted on August 1, 2013 and proposes the construction of a new tram and a walkway leading along the shoreline from the tram to the existing dock. The existing dock and associated existing stairs are proposed to remain. The applicant has agreed to construct a metal walkway leading from the tram to the dock with a metal mesh product, to help reduce the amount of disturbance along the shoreline and allow water and sunlight to infiltrate this area.

Environmental Code Variance Request

According to 25-8-281(C)(1)(a), a Critical Environmental Feature setback of 150' is required from the edge of the rimrock and 25-8-281(C)(1)(a) prohibits construction within the CEF buffer. The requested variance is to allow construction of a tram within the 150' buffer in order to allow the tram to cross over and span the rimrock. The canyon rimrock CEF will not be disturbed by tram construction. The existing shoreline access already crossed the rimrock and its buffer.

Environmental Conditions

- Walkway leading from tram to dock will be constructed with metal mesh product.
- Applicant will restore all disturbed areas in the CEF buffer with native plants, per the approved site plan.

Recommendation

Staff recommends approval of the environmental variance because the Findings of Fact (enclosed herein) have been met.



**Watershed Protection Department
Staff Recommendations Concerning Required Findings
Water Quality Variances**

Project:	2908 Scenic Dr. - SP-2013-0295DS
Ordinance Standard:	Land Development Code Section 25-8-281(C)(1)(a)
Variance Request:	To allow removal of existing stairs and construction of a tram within a corridor 10 feet wide and 55 feet long within the standard 150-foot width Critical Environmental Feature (canyon rimrock) buffer.

Justification:

A. Land Use Commission variance determinations from Chapter 25-8, Subchapter A – Water Quality of the City Code:

1. The requirement will deprive the applicant of a privilege or the safety of property given to owners of other similarly situated property with approximately contemporaneous development.

Yes. There are similarly situated properties on Lake Austin that have received a similar variance to construct a shoreline access within a Critical Environmental Feature buffer for a canyon rimrock.

2. The variance:

- a) Is not based on a condition caused by the method chosen by the applicant to develop the property, unless the development method provides greater overall environmental protection than is achievable without the variance;

Yes. The applicant will remove the existing shoreline access stairs, restore and revegetate the disturbed area within the canyon rimrock Critical Environmental Feature (CEF) buffer, and therefore minimize disturbance of the CEF buffer.

- b) Is the minimum change necessary to avoid the deprivation of a privilege given to other property owners and to allow a reasonable use of the property;

Yes. The existing house and patio are built within 12 feet of the top of the canyon rimrock and the existing stairs span the canyon rimrock. The owners have decided to remove the existing shoreline access stairs in order to construct the tram. The tram will be the only shoreline access for this lakefront property.

c) Does not create a significant probability of harmful environmental consequences; and

Yes. The proposed construction of a tram does not create a significant probability of harmful environmental consequences. Tram posts will be installed no closer than 1 foot downslope and 2 feet upslope of the canyon rimrock. The client's engineer's report states, "The potential for disturbance/alteration of the CEF is minimal."

3. Development with the variance will result in water quality that is at least equal to the water quality achievable without the variance.

Yes. No structural water quality controls are required for single family residential construction and the existing slope is vegetated. The resulting water quality will be the same as achievable without the variance.

B. Additional Land Use Commission variance determinations for a requirement of Section 25-8-393 (Water Quality Transition Zone), Section 25-8-423 (Water Quality Transition Zone), Section 25-8-453 (Water Quality Transition Zone), or Article 7, Division 1 (Critical Water Quality Zone Restrictions):

1. The above criteria for granting a variance are met;

N/A.

2. The requirement for which a variance is requested prevents a reasonable, economic use of the entire property; and

N/A.

3. The variance is the minimum change necessary to allow a reasonable, economic use of the entire property.

N/A.

Environmental Reviewer:


Sylvia R. Pope, P.G.

Environmental Officer:


Chuck Lesniak

Date: 11/17/2014

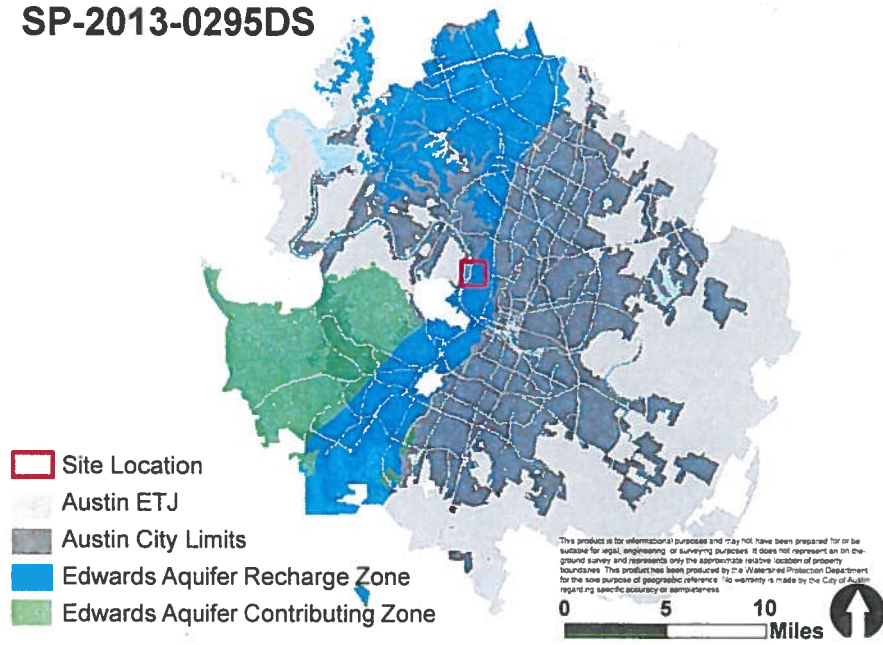
Staff may recommend approval of a variance after answering all applicable determinations in the affirmative (YES).

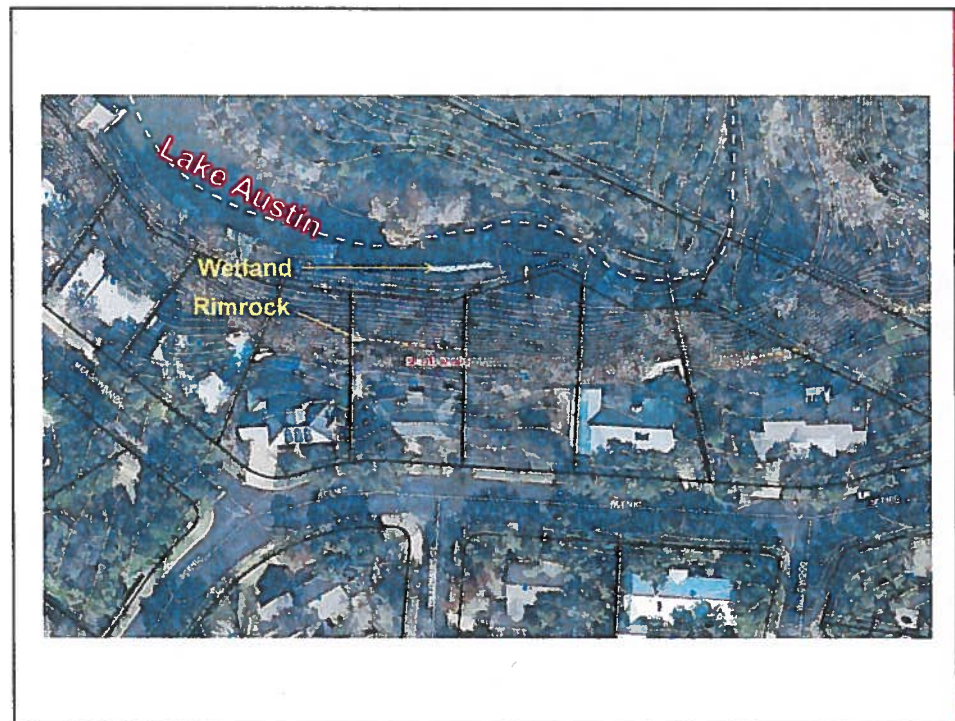
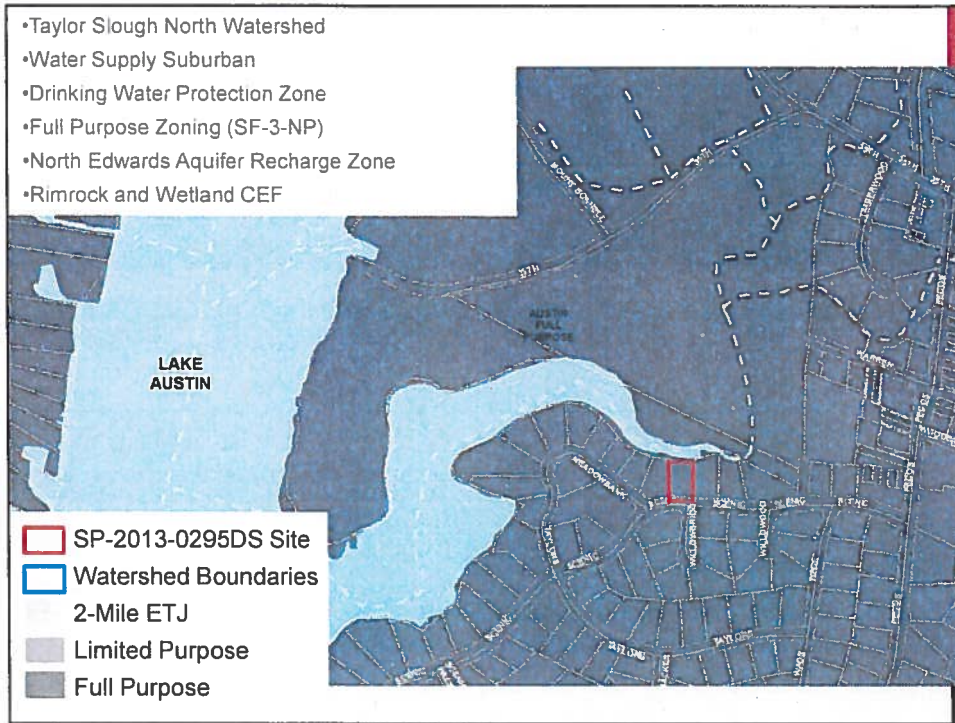
2908 SCENIC DRIVE TRAM SP-2013-0295DS

*Liz Johnston, Environmental Review Specialist Senior,
Land Use Review, PDRD*

*Sylvia Pope P.G., Hydrogeologist
Environmental Resource Management, WPD*

SP-2013-0295DS







View of proposed tram route



CEF at proposed tram crossing



Rimrock and existing shoreline access



Existing shoreline access



Proposed tram location

PREVIOUS REQUEST WAS TO KEEP EXISTING SHORELINE ACCESS

- Staff recommended denial of two variances: 25-8-261(C)(1) CWQZ for a secondary shoreline access, and 25-8-281(C)(1)(a) Critical Environmental Feature for reduction of a CEF buffer;
- EV Board recommended against the two variances on Sept 3, 2014 (5-2-0-0);
- Applicant has now agreed to remove existing shoreline access;
- Staff finds the single proposed access to be allowable within a CWQZ without an environmental variance;
- Due to the tram construction being minimal departure from the code, staff is now in support of the CEF variance request.

LDC 25-8-281(C)(1)(A)

This subsection prescribes the requirements for critical environmental feature buffer zones.

(1) A buffer zone is established around each critical environmental feature described in this subchapter.

(a) Except as provided in Subsection (C)(1)(b), the width of the buffer zone is 150 feet from the edge of the critical environmental feature.

VARIANCE REQUEST

Variance Request

- To modify the rimrock CEF buffer in order to allow construction of a tram within a corridor 10 feet wide and 55 feet long that spans a canyon rimrock.

Similar Cases

- 3961 Westlake Dr. SP-2013-0441DS
- EV Board voted to deny both variances
- ZAP continued discussion on 12/02/14.

VARIANCE RECOMMENDATION

Approval of CEF variance because Findings of Fact have been met.

Conditions:

- Walkway leading from tram to dock will be constructed with metal mesh product.
- Applicant will restore all disturbed areas in the CEF buffer with native plants, per the approved site plan.

November 18, 2014



ENVIRONMENTAL BOARD VARIANCE APPLICATION

Sir/ Madam,

This correspondence is being submitted as a request for a variance from Section 25-8-281(C)(1)(a) of the City of Austin Land Development Code for Site Plan Application SP-2013-0295DS to allow removal of the existing stairs and construction of a tram that spans a canyon rimrock Critical Environmental Feature. We are proposing to span this area and hand dig support post to support tracks.

It is our opinion that approval of the variance request will not provide the applicant with a special privilege over similar developments as the site has very steep topography and the property owners are in their 70s. Mr. Darling, owner, has severe arthritis in his knees and has had ham string issues that require physical therapy. The span from the patio to the ramp is 80 stairs, or the equivalent of almost 6 flights of stairs. The tram is necessary access for the aging residents. The stairs that are already in place will be removed so that there will be only a single access to the dock upon completion of project. The variance approval we believe is minimum departure of the Land Development Code and the approval of the variance will not create significant environmental consequences.

Should you have any questions or require any additional information, please contact our office.

Respectfully,

Mr. Phil Moncada

Moncada Consulting

PROJECT DESCRIPTION**Applicant Contact Information**

Name of Applicant	William and Kathryn Darling
Street Address	2908 Scenic
City State ZIP Code	Austin, Texas 78703
Work Phone	512-468-2356 or 512-731-2216
E-Mail Address	Bill.Darling@Strasburger.com or Kathy.Darling@Strasburger.com

Variance Case Information

Case Name	2908 Scenic – Tram
Case Number	SP-2013-0295DS
Address or Location	2908 Scenic
Environmental Reviewer Name	Liz Johnston
Applicable Ordinance	Sec. 25-8-281(C)(1)(a)
Watershed Name	Taylor Slough North
Watershed Classification	<input type="checkbox"/> Urban <input type="checkbox"/> Suburban <input type="checkbox"/> Water Supply Suburban <input checked="" type="checkbox"/> Water Supply Rural <input type="checkbox"/> Barton Springs Zone
Edwards Aquifer Recharge Zone	<input type="checkbox"/> Barton Springs Segment <input type="checkbox"/> Northern Edwards Segment <input checked="" type="checkbox"/> Not in Edwards Aquifer Zones
Edwards Aquifer Contributing Zone	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Distance to Nearest Classified Waterway	Approximately 0.70 miles
Water and Waste Water service to be provided by	Austin Water Utility
Request	The variance request is modify the standard 150-foot width CEF buffer in order to allow removal of existing stairs and construction of a tram that spans a canyon rimrock Critical Environmental Feature.

Impervious cover	Existing	Proposed
square footage:	4,300 s.f.	4,310 s.f.
acreage:	15,200 s.f.	15,200 s.f.
percentage:	28%	28%
Provide general description of the property (slope range, elevation range, summary of vegetation / trees, summary of the geology, CWQZ, WQTZ, CEFs, floodplain, heritage trees, any other notable or outstanding characteristics of the property)	The site consists of a single family residence with an existing staircase and boat dock that access Taylor Slough North. The slope range in this area exceeds 35% and topo ranges from 492.80 – 542.95. The site has rimrock that spans the width of the lot and a CEF wetland at the water's edge. We are proposing a tram that will tie into an existing ramp. We will span rimrock and are not disturbing any portion of the shoreline with this proposed development.	
Clearly indicate in what way the proposed project does not comply with current Code (include maps and exhibits)	The proposed project encroaches on a C.E.F. (Rimrock and wetland) as it relates to maintaining the 150 foot buffer required by Code.	

FINDINGS OF FACT for Section 25-8-281(C)(1)(a)

As required in LDC Section 25-8-41, in order to grant a variance the Land Use Commission must make the following findings of fact:

Include an explanation with each applicable finding of fact.

Project: 2908 Scenic Dr - Tram

Ordinance:

A. Land Use Commission variance determinations from Chapter 25-8-41 of the City Code:

1. The requirement will deprive the applicant of a privilege or the safety of property given to Owners of other similarly situated property with approximately contemporaneous development.

Yes. The lot is zoned SF-3 and contains a single family house. SF-3 zoned lots along water access are not subject to the more restrictive LA zone requirements. Restricting construction of a tram on this lot would deprive applicant of safe access to the lake and their existing boat dock. The lot contains a steep hill located along Taylor Slough of Lake Austin. The proposed tram will span the rim rock and cross the CEF buffer as necessary to provide safe access to the shoreline and the existing boat dock that has been in existence since 1968. Other properties on Lake Austin, even in the LA Zone, with steep hills have been granted variances to provide shoreline access facilities that cross CEF buffer. A tram is allowed by the Land Development Code in effect for this application for residential lots that are permitted to have a boat dock along Lake Austin.

2. The variance:

- a) Is not based on a condition caused by the method chosen by the applicant to develop the property, unless the development method provides greater overall environmental protection than is achievable without the variance;

Yes, the project is not based on a condition caused by the method chosen to develop the property. The residence is located at the top of an existing, naturally-occurring hillside. The rimrock is an existing geological feature. The Engineer of Record is proposing to span the rim rock to protect its integrity. In addition, a planting mitigation plan will provide greater environmental protection by planting low growing shade tolerant plants to restore hillside in area where elevated sidewalk and tram are proposed to be constructed. The plan is to remove the existing stairs. To deny the tram is to deny them access to their property.

- b) Is the minimum change necessary to avoid the deprivation of a privilege given to other property owners and to allow a reasonable use of the property;

Yes. The applicant has worked with staff to prepare plans that will minimize impact to the CEF. The applicant will span the rim rock in constructing the piers that will support the

tram. The applicant will install a mesh raised walkway that will permit light and rain to the undergrowth to preclude any possible erosion and maintain new plantings.

- c) Does not create a significant probability of harmful environmental consequences;

Yes. The proposed construction of a tram does not create a significant probability of harmful environmental consequences. The applicant has agreed to restore and revegetate any disturbance on the slope with native plants. Tram posts will be installed no closer than 1 foot downslope and 2 feet upslope of the canyon rimrock. Because the proposed construction is in effect a set of rails and a raised walkway, ground disturbance will be minimized by the lack of grading or other soil disturbance other than the placement of piers in the ground.

3. Development with the variance will result in water quality that is at least equal to the water quality achievable without the variance.

Yes. No structural water quality is required for single family residential structures. The resulting water quality will be equal or greater as achievable without the variance.

- B. Additional Land Use Commission variance determinations for a requirement of Section 25-8-393 (Water Quality Transition Zone), Section 25-8-423 (Water Quality Transition Zone), Section 25-8-453 (Water Quality Transition Zone), or Article 7, Division 1 (Critical Water Quality Zone Restrictions):

1. The criteria for granting a variance in Section A are met;

N/A

2. The requirement for which a variance is requested prevents a reasonable, economic use of the entire property; and

N/A

3. The variance is the minimum change necessary to allow a reasonable, economic use of the entire property.

N/A

Exhibits for Board Backup and/or Presentation

Please attach and paginate.

- X Aerial photos of the site (backup and presentation)
 - o Site photos (backup and presentation)
 - o Aerial photos of the vicinity (backup and presentation)
 - o Context Map—A map illustrating the subject property in relation to developments in the vicinity to include nearby major streets and waterways (backup and presentation)
 - o Topographic Map - A topographic map is recommended if a significant grade change on the subject site exists or if there is a significant difference in grade in relation to adjacent properties. (backup and presentation)
 - o For cut/fill variances, a plan sheet showing areas and depth of cut/fill with topographic elevations. (backup and presentation)
 - o Site plan showing existing conditions if development exists currently on the property (presentation only)
 - o Proposed Site Plan- full size electronic or at least legible 11x17 showing proposed development, include tree survey if required as part of site or subdivision plan (backup and presentation)
 - o Environmental Map – A map that shows pertinent features including Floodplain, CWQZ, WQTZ, CEFs, Setbacks, Recharge Zone, etc. (backup and presentation)
 - o An Environmental Assessment pursuant to ECM 1.3.0 (if required by 25-8-121) (backup only)
 - o Applicant's variance request letter (backup only)

WILLIAM MORAN, M.D., P.A.

William Moran, M.D.

4201 Marathon Blvd., Suite 204
Austin, TX 78756

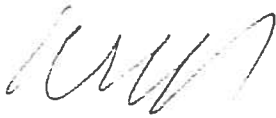
(512) 459-3205
Fax (512) 459-8590

August 18, 2014

RE: William Darling
DOB: 06/08/1942

To Whom It May Concern:

I am the Primary Care Physician for William Darling. Mr. Darling has severe arthritis in his back and both knees and can no longer climb long flights of stairs.

A handwritten signature in dark ink, appearing to be 'WM', is written above the printed name.

William Moran, M.D.



